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August 29, 2008

**BY E-FILING, E-MAIL
& HAND DELIVERY**

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The Honorable Vincent J. Poppiti
Blank Rome LLP
1201 N. Market Street, Suite 800
Wilmington, DE 19801

Re: Honeywell International Inc., et al. v. Apple Computer, Inc., et al.
C.A. No. 04-1338-JJF (Consolidated)

Dear Judge Poppiti:

I am writing in response to one aspect of the letter filed late yesterday by Mr. Halkowski (D.I. 1173) on behalf of the customer defendants.

Contrary to Mr. Halkowski's suggestion, Judge Jordan never "rejected" the notion that the manufacturer defendants *should stand in* for their customers' direct infringement. Rather, Judge Jordan's restructuring of the case was based on *that very assumption*.

Honeywell originally sued customer defendants who were subject to the jurisdiction of the United States, and who engaged in direct infringement within the United States. In staying the case against these defendants, it was never Judge Jordan's intent to force Honeywell to confront additional defenses that were otherwise unavailable to its chosen class of defendants. Such a result would be manifestly unfair to Honeywell, and would be incredibly inefficient because the liability of these customers could remain, even after the manufacturers' liability is resolved.

While the validity *vel non* of Judge Jordan's assumption will be borne out by the results of the current proceedings with the Affected Defendants, some active manufacturer defendants—InnoLux and Citizen—are leveraging defenses unique to their status as foreign suppliers (*e.g.*, jurisdiction and inducement, respectively). These are defenses that their customers, who directly sell products here in the United States, simply do not have. To the extent the Court entertains these defenses, the manufacturers will not be fully standing in for the

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otherwise-actionable direct infringement of their customers. In that case, it would be inefficient to proceed against the manufacturer with these defenses in play when the customer-defendant is liable for the entire scope of infringement regardless of such defenses.

Honeywell's entry in *the* joint Scheduling Chart was intended to call this conundrum to the Court's attention, so the procedural restructuring of the case directed by Judge Farnan can be accomplished in a fair and consistent manner. Honeywell is prepared to proceed against the manufacturers, assuming it is not met with procedural roadblocks contrary to Judge Jordan's original assumptions. If the participation of the manufacturer defendants will not resolve the liability of their customers, then Honeywell should simply be allowed to proceed against the customers.

Respectfully,

/s/ Thomas C. Grimm

Thomas C. Grimm (#1098)

TCG

cc: Dr. Peter T. Dalleo, Clerk (by hand)
All Counsel of Record (by e-filing and/or e-mail)
(see attached Certificate of Service)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 29, 2008, the foregoing was caused to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered participants.

In addition, the undersigned hereby certifies that true and correct copies of the foregoing were caused to be served via electronic mail on August 29, 2008 upon the following parties:

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